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OFFICE OF PETITIONS

In re Application of
Paul Wensley, et al.
Application No. 09/625,226
Filed: July 24, 2000
Attorney Docket No. 20133-000300US

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ON PETITION

This is a decision on the petition, filed January 11, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b). This is also a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**, since the application was returned to a pending status by a decision mailed December 10, 2004.

NOTICE REGARDING TO FEE DEFICIENCY SUBMISSION UNDER 37 CFR 1.28

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

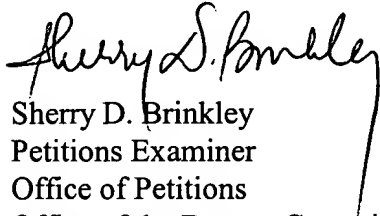
Applicant submitted an itemized list of deficient payments as required under 37 CFR 1.28. However, the list does not include the difference between the \$665 petition fee submitted on August 16, 2004, and \$1500 petition fee now required as a fee deficiency to be accepted under 37 CFR 1.28. In order to accept the fee deficiencies in this case, the petition fee deficiency of \$835 must be included. Therefore, since the \$1500 petition fee accompanying the present petition to revive is subject to a refund, \$835 will be applied to the deficiency owed for the petition to revive, along with the other fees identified of the itemized list. The remaining \$665 is being refunded in form of a credit to applicant's credit card.

In view of the above, your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Status as a small entity has been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

The application is being returned to Technology Center Art Unit 2625.

A handwritten signature in black ink, appearing to read "Sherry D. Brinkley". The signature is written in a cursive style with a long, sweeping vertical line extending downwards from the end of the name.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy